



U.S. Department of Justice

*United States Attorney
Eastern District of New York*

MKM:MKP/TH/MJL/KMT
F. #2017R01840

*271 Cadman Plaza East
Brooklyn, New York 11201*

February 15, 2019

By Hand and ECF

The Honorable Nicholas G. Garaufis
United States District Judge
United States District Court
225 Cadman Plaza East
Brooklyn, New York 11201

Re: United States v. Clare Bronfman, et al.
Criminal Docket No. 18-204 (NGG) (S-1)

Dear Judge Garaufis:

The government respectfully submits this letter to provide an update regarding discovery.

On January 14, 2019, the privilege review team alerted counsel for defendant Clare Bronfman that it was in possession of documents, some of which Bronfman might seek to assert are covered by the attorney-client privilege. From January 14, 2019 through January 23, 2019, the privilege team and Bronfman's counsel conferred regarding the privilege review process for these documents and agreed on a list of search terms that would be applied to the documents to segregate potentially privileged materials for future review. Out of 14,992 documents, 1,451 hit a privilege term (the "Potentially Privileged Material") and 13,541 did not (the "Presumptively Not Privileged Material"). The privilege team stressed to Bronfman's counsel the need for the process to move quickly because of the scheduled trial date.

On January 25, 2019, the privilege review team produced the Presumptively Not Privileged Material to Bronfman's counsel to give them an opportunity to make any additional assertions of privilege before these documents were turned over to the trial team. Bronfman's counsel agreed to notify the privilege team about any additional documents they were seeking to have withheld from the trial team to be reviewed for potential privilege by February 4, 2019.

On February 1, 2019, Bronfman's counsel told the privilege team that they (Bronfman's counsel) also needed to review the Potentially Privileged Material to review properly the Presumptively Not Privileged Material. The privilege team agreed to provide the Potentially Privileged Material to Bronfman's counsel but stated that they would only be able to give Bronfman's counsel one extra day to conduct their review.

On February 6, 2019, Bronfman's counsel identified 37 documents and 9 floppy discs¹ from within the Presumptively Not Privileged Material that they wish to be withheld from the trial team as potentially privileged. The privilege team informed Bronfman's counsel that it would be providing the remaining Presumptively Not Privileged Material (the "Not Privileged Material") to the trial team the next day.

On the morning of February 7, 2019, Bronfman's counsel asked the privilege team—for the first time—to refrain from providing the Not Privileged Material to the trial team until February 8, 2019, while they "consider[ed] whether to file a motion to seek court intervention regarding these documents." On February 8, 2019, Bronfman's counsel stated that they planned "to file a motion related to the government's wrongful possession of the documents . . . and anticipate[d] filing by mid-week next week."

¹ Raniere's counsel also asserted a privilege over two documents which Bronfman's counsel apparently provided to him. Those have been segregated for the time being.

Bronfman's counsel has been aware of these documents for over a month and over a week has passed since the date they knew that the trial team was to have received the documents. The government is unaware of any legal basis to continue to withhold the Not Privileged Material from the trial team. Based on the foregoing, the privilege team intends to provide the Not Privileged Material to the trial team by 5:00 p.m. on February 18, 2019.

Respectfully submitted,

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cc: Clerk of Court (NGG) (by ECF)
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